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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,523	06/25/2003	James A. Tennant	JP-001R	4116

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EXAMINER
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BASINGER, SHERMAN D

ART UNIT	PAPER NUMBER
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3617

DATE MAILED: 06/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/603,523

Applicant(s)

TENNANT, JAMES A.

Examiner

Sherman D. Basinger

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16 and 17 is/are allowed.
- 6) ☒ Claim(s) 1-4, 7, 8, 12-14, 18, 25 and 26 is/are rejected.
- 7) ☐ Claim(s) 5, 6, 9-11, 15 and 19-24 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 June 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings filed June 25, 2003 are objected to because the lines, numbers and letters are not uniformly thick and well defined. Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 7, 8 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Thibodeau.

The first clamp part is arm 19, the second clamp part is arm 25 and the nose and shoulders are shown in figure 1 with pintle 24 passing through the noses and the shoulders receiving the noses. Arm 19 has one nose and two shoulders while arm 25 has two noses and one shoulder between the two noses.

The stem portion of claim 2 is made up of jaws 21 and 26 each of which extends *adjacent* one side of a portion of a hull of the boat which is in operative connection with the gunwale.

The bracket of claim 7 is made up of arms 16. The item is handle member 12 or blade member 13. The support member is either of gear segments 12a and 13a. The projection of the bracket is either one of the pivot bolts 14.

The tensioning device of claim 12 is made up of bolt 28 and wing nut 30.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3, 4, 14, 18 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thibodeau.

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With regard to claim 3, Thibodeau does not disclose that a width of the stem portion is narrower than the width of the gunnel 18. However, bolt 28 and tension nut 30 enable one to make the width of the stem portion more narrow than the width of the gunnel 18. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to adjust wing nut 30 of Thibodeau to make the distance between jaws 21 and 26 more narrow than the thickness of the gunnel in Thibodeau. Motivation to do so is to bring the jaws 21 and 26 into contact or almost into contact with each other for storage of the attachment of Thibodeau.

The fastener of claim 4 is pintle 24.

With regard to claim 14, Thibodeau teaches placing two clamp parts 19 and 25 adjacent sides of a gunwale of a boat wherein each clamp part includes a nose which curves around an uppermost point on the gunwale, fastening the clamp parts together with pintle 24 that extends through each nose part wherein the fastened clamp parts form a clamp with an aperture including an opening portion that extends around the gunwale wherein the aperture further includes a stem portion formed by jaws 21 and 26 that extends *adjacent* each side portion of a hull of the boat which is in operative connection with the gunnel. Thibodeau does not disclose that a width of the stem portion is narrower than the width of the gunnel. However, bolt 28 and tension nut 30 enable one to make the width of the stem portion more narrow than the width of the gunnel. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to adjust wing nut 30 of Thibodeau to

make the distance between jaws 21 and 26 more narrow than the thickness of the gunnel in Thibodeau. Motivation to do so is to bring the jaws 21 and 26 into contact or almost into contact with each other for storage of the attachment of Thibodeau.

With regard to claim 18 the gunnel of Thibodeau is 18, the two clamp parts are arms 19 and 25, the nose part of each clamp part receives pintle 24, arm 25 having two noses with a shoulder there between and arm 19 having one nose with a shoulder on each side, at least one fastener 24 which extends through each nose part, wherein the nose part of a first one of the clamp parts extends adjacent the shoulder portion of a second one of the clamp parts, wherein the nose part of the second one of the clamp parts extends adjacent the shoulder portion of the first one of the clamp parts, wherein the shoulder portions extend adjacent opposed sides of the gunwale, wherein the nose parts of each of the clamp parts extend around at least *a portion of* the gunwale to contact the shoulder portions, an aperture bounded by the clamp parts, wherein the aperture includes an opening portion that extends around the gunwale, wherein the aperture further includes a stem portion formed by jaws 21 and 26 that extends *adjacent* each side of a portion of the hull. Thibodeau does not disclose that a width of the stem portion is narrower than the width of the gunnel. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to adjust wing nut 30 of Thibodeau to make the distance between jaws 21 and 26 more narrow than the thickness of the gunnel in Thibodeau. Motivation to do so is to bring the jaws 21 and 26 into contact or almost into contact with each other for storage of the attachment of Thibodeau.

The tension device of claim 25 is made up of bolt 28 and wing nut 30.

6. Claims 13 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thibodeau in view of Robbins. Thibodeau does not disclose that one cushioning insert is placed between the gunwale and the first and second clamp parts. Note the clamping shoe 11 of Robbins which is rubber. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to provide clamping shoes of rubber to the jaws 21 and 26 of Thibodeau in view of shoes 11 of Robbins. Motivation to do so is to protect the gunnel of the boat of Thibodeau from being marred by the jaws.

***Allowable Subject Matter***

7. Claims 5, 6, 9-11, 15 and 19-24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. Claims 16 and 17 are allowed.

9. The following is a statement of reasons for the indication of allowable subject matter: Claims 5, 6, 15, 16, 17 and 19-24 are indicated as containing allowable subject matter because in Thibodeau the shoulder portion of each of the first and second clamp parts are not operative to contact adjacent nose parts of the first and second clamp parts to prevent the first and second clamp parts from pivoting to a position which

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enables the gunwale to pass through the stem portion of the aperture nor does any of the art of record provide motivation to modify the clamp parts of Thibodeau as such.

Claims 9-11 are indicated as containing allowable subject matter because Thibodeau does not disclose transversely mounting at least one fastener through the support member 12a or 13a and the projection 14 nor does any of the art of record provide motivation to do so.

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ferris is cited to show the stem portion created by flanges 2 and 10. Goserud is cited to show the clamp for the lip of a pail. Hamel is cited to show the boat clamp.

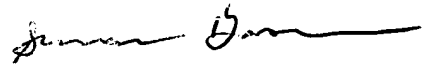
11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sherman D. Basinger whose telephone number is 703-308-1139. The examiner can normally be reached on M-F (6:00-2:30 ET).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel J. Morano can be reached on 703-308-0230. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Sherman D. Basinger  
Primary Examiner  
Art Unit 3617  
6/8/04

Sdb  
6/8/04